

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1380 of 1998

in

CIVIL APPLICATION No 7484 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

DE NALLADARU

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

MR BP BHATT for Appellant
MR BHARAT T RAO for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR NV ANJARIA for Respondent No. 3

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 23/12/98

ORAL JUDGEMENT

#. Admitted. Mr. B.T.Rao, learned counsel for the respondent No.1 appears and waives service of notice of admission. In the facts and circumstances, the matter is taken for final hearing.

#. This appeal is filed against the judgment and order passed by the learned Single Judge in Special Civil Application No : 9075 of 1997 on January 28, 1998.

#. The appellant was the original petitioner. He approached this Court for an appropriate writ, order or direction directing the authorities to pay him the amount of provident fund with interest. The learned Single Judge after hearing the parties observed that the claim of the petitioner for interest could not be accepted because he himself was responsible for delay. The Manager of the Surat District Cooperative Bank Ltd., (respondent No.3) was all the time ready and willing to pay the amount of provident fund to the petitioner but the petitioner did not accept the said amount. The petition was accordingly disposed of.

#. It appears that Civil Application No. 7484 of 1998 was filed, on which an order was passed by the learned Single Judge on 6th October, 1998. In para-5 of the order passed by the learned Single Judge, it is observed as under;

"... But taking into consideration the fact that he is a retired person and whatever he has done would have been under the advice of his advocate, I consider it to be a case not to take any harsh action against him. At the same time, he cannot be made scot free for this serious attempt made by him of abusing the process of the Court. However, the interest of justice would be met in case a nominal penalty is imposed on him by directing him to deposit Rs.1000/- with the office of the Gujarat State Legal Aid Advice Board. The petitioner is directed to deposit this amount of Rs.1000/- within two months from today. In view of the fact that the M.C.A. Itself has no merits, Civil Application No.7484 of 1998 deserves to be dismissed."

Thus, penalty of Rs.1000/- was imposed on the applicant.

#. When the appeal was placed for hearing, we pass the following order on November 21, 1998;

"Notice returnable only to the extent of
direction by court regarding payment of cost of
Rs.1000/- returnable on 15th December, 1998."

#. We have heard the parties. They have left the
question to us.

#. In the facts and circumstances of the case, in our
opinion, the penalty of Rs.1000/- ought not to have been
ordered. In the facts and circumstances of the case, LPA
is partly allowed to the extent of payment of penalty of
Rs.1000/-. The rest of the judgment is not disturbed.
The appeal is disposed of accordingly. In view of the
facts and circumstances of the case, no order as to
costs.

Date : 23-12-1998 (C.K.Thakkar,J.)(A.L.Dave, J.)

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